

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

JOSHUA WILSON, *et al.*,)
Plaintiff,)
v.) No. 4:22-CV-00438
LLOYD AUSTIN, III, *et al.*,)
Defendants.)

DECLARATION OF STAFF SERGEANT ASHLEY CHAPONIS

I, Ashley Chaponis, United States Air Force, declare and state as follows:

1. I am an active-duty Air Force Staff Sergeant (SSgt) and currently perform duties as a paralegal for the Military Personnel Litigation Branch of the Personnel and Information Law Division, Civil Law Directorate, Department of the Air Force Judge Advocate General's Corps. I have been employed by the Department of the Air Force since October 19, 2010, and have served in various other roles in the Air Force Judge Advocate General's Corps.
2. I am familiar with the allegations made in the above-captioned case. As part of this case, my office coordinated with the commands for the 9 Air Force plaintiffs. I have reviewed the information provided by the respective commands concerning the plaintiffs. I have also reviewed the Secretary of the Air Force's (SecAF) Memorandum, dated January 23, 2023, "Rescission of 3 September 2021 Mandatory COVID-19 Vaccination of Department of the Air Force (DAF) Military Members and 7 December 2021 Supplemental COVID-19 Vaccination Policy Memorandum," <https://media.defense.gov/2023/Jan/24/2003148810/-1-1/1/DAF%20COVID-19%20VACCINATION%20MANDATE%20RESCISSON.PDF>, and the SecAF's Memorandum, dated February 24, 2023, "Department of the Air Force (DAF) Guidance

on Removal of Adverse Actions and Handling of Religious Accommodation Requests,"

https://www.af.mil/Portals/1/documents/2023SAF/PolicyUpdates/L6JT_SecAF_Signed_DAF_guide_Adverse_Actions_Religious_Requests_24Feb23.pdf

3. Based on the information provided to me by their respective commands, I can confirm that the 9 Air Force plaintiffs have no adverse actions (in accordance with the memorandum stated above) in their personnel records for refusal to follow a prior order to receive the COVID-19 vaccine.

4. Six of the plaintiffs—Colonel (Col) Summer Fields, Col Karyn Christen, Lieutenant Colonel (Lt Col) Scot Wells, Major (Maj) Joshua Wilson, Captain (Capt) Carley Gross, and Capt Michael Doughty—never received an adverse action in their personnel records for refusing vaccination against COVID-19. Although Col Fields and Capt Doughty were issued Letters of Reprimand (LOR) for refusing the vaccine, their LORs were never finalized and thus never entered into their personnel records.

5. Maj Wilson submitted a timely request for a medical exemption and was temporarily exempt from the vaccine requirement while that exemption request was processed through the Integrated Disability Evaluation System (IDES). His medical exemption request was approved on May 31, 2022. On June 29, 2022, upon completion of the IDES, Maj Wilson's Duty Limiting Code related to his COVID-19 vaccination status was removed. He has been medically cleared for duty with no restrictions related to his COVID-19 vaccination status. Additionally, due to a previous injury, Maj Wilson was not on flying status at the time he was ordered to receive a COVID-19 vaccine. He has since recovered and completed medical evaluation boards for both his previous injury and COVID-19 vaccine allergy. He has since returned to flying status and does not face losing his flying status.

6. Capt Gross currently has the required hours to be sent to her Aircraft Commander Upgrade Course, and her unit is working to send her as soon as she is deemed capable and ready as a pilot. She is slated to be reassigned to McConnell Air Force Base in June 2023, and it is estimated she will begin her upgrade before the end of 2023, which is a 6-month process. However, that depends purely on her performance of her primary duty currently.

7. Staff Sergeant (SSgt) Brittany Pucket received an LOR for refusing to become vaccinated against COVID-19. That LOR was rescinded as of February 13, 2023. For other conduct regarding disrespect relating to vaccine issues, her commander offered her nonjudicial punishment, which she turned down. The commander then issued an LOR in September 2022 for disrespect. That LOR remains in place. The commander did not initiate a referral enlisted performance report (EPR), which would have had a negative impact on her promotion; instead, the commander marked her for “Promote” on her next EPR. That remaining LOR is not based on SSgt Pucket’s noncompliance with the now-rescinded COVID-19 vaccination requirement.

8. Maj Ryan Madigan received an LOR for failure to become vaccinated against COVID-19. That LOR has been rescinded as of April 19, 2023, pursuant to the Secretary of the Air Force’s February 24, 2023, memorandum. *See supra ¶ 2.* In light of the preliminary injunction issued by the Southern District of Ohio in *Doster v. Kendall*, the LOR was never placed in his officer selection record. He promoted from the rank of captain to the rank of major on February 17, 2023. He is not retiring, but he has indicated to leadership that he no longer wishes to serve and decided to let his service commitment expire. Although he was originally placed in a no pay, no points status and did become current with flying, his squadron has a plan to restore him to currency if he wishes to stay. No action (i.e., grounding) was taken against his flying status, he was not subject to any flight evaluation board, and he lost currency only because he was not

allowed to participate. His is no longer in a no pay, no points status. The squadron is willing to work with him and has a plan to restore his currency.

9. After her religious accommodation request was denied by the Air Force Surgeon General on March 18, 2022, Col Christen was ordered to become vaccinated against COVID-19 on April 1, 2022. Col Christen then submitted her retirement paperwork on April 11, 2022, which was approved by her commander on April 18, 2022. On April 27, 2022, she was issued her retirement order reflecting a date of separation for July 31, 2022, and an effective retirement date of August 1, 2022. On June 16, 2022, her extended active duty orders were modified accordingly to reflect the date of separation and retirement date. She has since retired from the United States Air Force, with an effective retirement date of August 1, 2022. She was issued an LOR for her failure to receive the COVID-19 vaccine, but that LOR was never finalized and thus never entered into her personnel record.

10. Maj Benjamin Walker received a Letter of Counseling (LOC) for his failure to receive the COVID-19 vaccine, but that LOC was removed as of March 12, 2023. His LOR for insubordination, as well as related documents such as his referral officer performance report and unfavorable information file, remain in place. That LOR is not based on Maj Walker's noncompliance with the now-rescinded COVID-19 vaccination requirement.

11. No plaintiff has any other adverse action in his or her personnel files based on his or her refusal to follow the now-rescinded COVID-19 vaccination requirement. Additionally, revised Department of Defense policy directs all services not to "consider a Service member's COVID-19 immunization status in making deployment, assignment, and other operational decisions." *See* Deputy Sec'y of Def. Mem. (Feb. 24, 2023), "Guidance for Implementing Rescission of the August 24, 2021, and November 30, 2021, Coronavirus Disease 2019 Vaccination Requirements for Members of the Armed Forces," [Guidance for Implementing Rescission of August 24, 2021](#)

and November 30, 2021 Coronavirus Disease 2019 Vaccination Requirements for Members of the Armed Forces (defense.gov). Accordingly, no plaintiff currently serving in the Air Force is limited in their assignment or deployability based on their compliance with the now-rescinded COVID-19 vaccination requirement. The only vaccination-based limitations are based on the requirements of a host nation to which a member may deploy.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 21, 2023.

CHAPONIS.ASHLEY.L⁹⁵¹⁵⁸¹¹
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